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In re Application of
Brown et al.
Application No. 10/528,156
PCT No.: PCT/NZ03/00210
Int. Filing Date: 17 September 2003
Priority Date: 17 September 2002
Atty. Docket No.: 4450-12
For: DNA-Targeted Benzotriazine 1,4-
Dioxides And Their Use In Cancer

DECISION

This is in response to the correspondence filed on 09 February 2006.

BACKGROUND

This international application was filed on 17 September 2003, claimed an earliest priority date of 17 September 2002, and designated the U.S. The International Bureau communicated a copy of the published international application to the USPTO on 01 April 2004. The 30 month time period for paying the basic national fee in the United States expired at midnight on 17 March 2005. Applicants filed, *inter alia*, the basic national fee on 17 March 2005.

On 17 August 2005, applicants submitted a declaration of the inventors.

On 31 August 2005, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an oath or declaration compliant with 37 CFR 1.497(a) and (b) as well as an initial paper or compact disc of the "Sequence Listing," an amendment directing its entry, a computer-readable form (CRF) of the sequence listing, an amendment directing its entry, and a statement that the computer-readable form (CRF) of the sequence listing is identical to the paper or compact disc copy and (where applicable) contains no new matter.

On 21 October 2005, counsel filed a response, stating that "the executed Declaration was filed on August 17, 2005" and that "the present application does not contain a separate sequence listing. Therefore, Applicants respectfully request that the sequence listing requirement be withdrawn."

On 23 January 2006, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed to applicants, again requiring the submission of an oath or declaration compliant with 37 CFR 1.497(a) and (b) as well as an initial paper or compact disc of the "Sequence Listing," an amendment directing its entry, a computer-readable form (CRF) of the sequence listing, an amendment directing its entry, and a statement that the computer-readable form (CRF) of the sequence listing is identical to the paper or compact disc copy and (where applicable) contains no new matter. It was observed that "Inventors name listed as Martin J. Brown on International Application and as J. Martin Brown on Declaration. Please clarify."

DISCUSSION

Regarding the requirements related to a "Sequence Listing," counsel states that "Applicants respectfully submit that the present application does not contain a sequence listing, which Applicants stated in the Response to Notification of Missing Requirements filed on October 21, 2005. Please note your records accordingly." Based on counsel's statements and a review of the application file, it would be appropriate to conclude that the requirements related to a "Sequence Listing" in the Forms PCT/DO/EO/905 and PCT/DO/EO/916 were inapposite, and those requirements therefore are WITHDRAWN.

With regard to the declaration,

Applicants respectfully submit that the first inventor's name, "J. Martin Brown," is correctly identified on the executed Declaration and Assignment documents filed August 17, 2005. The inventor's name is incorrectly listed as "Martin J. Brown" on the face of the PCT International Application.

Since this discrepancy clearly represents more than a mere typographic error or phonetic misspelling of applicant's name, a proper petition and fee under 37 CFR 1.182 would be required to resolve this matter. See MPEP § 605.04(b) and MPEP § 201.03(b).

CONCLUSION

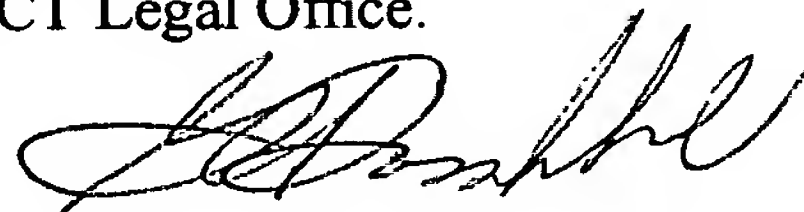
The declaration filed on 17 August 2005 is NOT ACCEPTED, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in ABANDONMENT.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.



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